

Amendment No. 1 to SB2313

Dickerson
Signature of Sponsor

AMEND Senate Bill No. 2313*

House Bill No. 2578

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 10-7-404, is amended by adding the following language as a new subsection (e):

(e)

(1) Notwithstanding any law to the contrary, public records, temporary records, or working papers, as those terms are defined in § 10-7-301, must not be destroyed or authorized for destruction under this part if the records custodian for those records; the public records request coordinator, as defined in § 10-7-503(a)(1)(B); any member of the county public records commission; or an official who has made a request for destruction of those records:

(A) Has knowledge that a request has been made by any person to view or copy those records under this chapter; or

(B) Has reasonable cause to believe that a request may be made by any person to view or copy those records under this chapter or as part of any potential litigation.

(2) At the time of approval for destruction of any records, the county public records commission shall make a diligent inquiry to ensure that there is no pending request to view or copy the records proposed to be destroyed and no reasonable cause to believe that a request to view or copy those records may be made in the future. If there is no pending request and no reasonable cause to believe there will be a request in the future, the commission shall record in its minutes that the commission has complied with this subsection (e).

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(3) A violation of subdivision (e)(1) is a Class B misdemeanor,
punishable by a fine of up to five hundred dollars (\$500).

SECTION 2. Tennessee Code Annotated, Title 10, Chapter 7, Part 7, is amended by
adding the following as a new section:

(a) Notwithstanding any law to the contrary, public records, temporary records,
or working papers, as those terms are defined in § 10-7-301, must not be destroyed or
authorized for destruction under this part if the records custodian for those records:

(1) Has knowledge that a request has been made by any person to view
or copy those records under this chapter; or

(2) Has reasonable cause to believe that a request may be made by any
person to view or copy those records under this chapter or as part of any
potential litigation.

(b) A violation of this section is a Class B misdemeanor, punishable by a fine of
up to five hundred dollars (\$500).

SECTION 3. Tennessee Code Annotated, Section 10-7-503(a), is amended by adding
the following as a new subdivision (8):

(8)

(A) Written requests to view or receive copies of public records, and
correspondence with any person regarding a request to view or receive copies of
public records, are not temporary records or working papers, as those terms are
defined in § 10-7-301, and must be preserved for a minimum of five (5) years.

(B) Internal communication within an agency about a request to view or receive copies of public records must also be preserved in accordance with this subdivision (a)(8).

(C) The requests to view or receive copies of public records, correspondence with the requester about these requests, and internal communication within an agency about the requests must not be destroyed when they are requested under this chapter.

(D) Destruction of documents in violation of this subdivision (a)(8) is a Class B misdemeanor, punishable by a fine of up to five hundred dollars (\$500).

(E) When a person seeking access to or copies of documents described in this subdivision (a)(8) is denied access because the documents have been destroyed in violation of this subdivision (a)(8), the person may seek injunctive relief to prevent further violations of this subdivision (a)(8). If the person prevails in the action, the person may recover the costs of the action and reasonable attorney's fees against the government agency and government officials who were involved in destroying or authorizing the destruction of the records.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.